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6 Attorneys for Defendant

7 CONTRA COSTA MEDICAL SERVICES

REGIONAL MEDICAL CENTER

8  
9  
10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12

13 C. ROBERT PETTIT, M.D.,

14 Plaintiff

15 v.

16  
17 CONTRA COSTA MEDICAL SERVICES  
18 REGIONAL MEDICAL CENTER and  
DOES ONE THROUGH TWENTY,  
Inclusive,

19 Defendants.

No. C 07 3358 JL

ANSWER TO COMPLAINT and REQUEST  
FOR JURY TRIAL

20 Defendant Contra Costa County (sued erroneously as “Contra Costa Medical Services  
21 Regional Medical Center”) in response to plaintiff’s unverified complaint, admits, denies and  
22 alleges as follows:

23 ANSWER

- 24 1. Responding to the first numbered paragraph of plaintiff’s complaint, Defendant admits  
25 that subject matter and jurisdiction is proper in this court.  
26 2. Responding to the second numbered paragraph of plaintiff’s complaint, Defendant  
27 denies the allegations based on lack of information and belief.  
28

- 1 3. Responding to the third numbered paragraph of plaintiff's complaint, Defendant denies  
2 the allegations based on lack of information and belief.
- 3 4. Responding to the fourth numbered paragraph of plaintiff's complaint, Defendant  
4 denies the allegations.
- 5 5. Responding to the fifth numbered paragraph of plaintiff's complaint, Defendant denies  
6 the allegations.
- 7 6. Responding to the sixth numbered paragraph of plaintiff's complaint, Defendant denies  
8 the allegations based on lack of information and belief.
- 9 7. Responding to the seventh numbered paragraph of plaintiff's complaint, Defendant  
10 denies the allegations based on lack of information and belief.
- 11 8. Responding to the eighth numbered paragraph of plaintiff's complaint, Defendant  
12 admits the allegations.
- 13 9. Responding to the ninth numbered paragraph of plaintiff's complaint, Defendant denies  
14 the allegations based on lack of information and belief.
- 15 10. Responding to the tenth numbered paragraph of plaintiff's complaint, Defendant denies  
16 the allegations based on lack of information and belief.
- 17 11. Responding to the eleventh numbered paragraph of plaintiff's complaint, Defendant  
18 denies the allegations.
- 19 12. Responding to the twelfth numbered paragraph of plaintiff's complaint, Defendant  
20 denies the allegations.
- 21 13. Responding to the thirteenth numbered paragraph of plaintiff's complaint, Defendant  
22 denies the allegations based on lack of information and belief.
- 23 14. Responding to the fourteenth numbered paragraph of plaintiff's complaint, Defendant  
24 denies the allegations.
- 25 15. Responding to the fifteenth numbered paragraph of plaintiff's complaint, Defendant  
26 denies the allegations.
- 27 16. Responding to the sixteenth numbered paragraph of plaintiff's complaint, Defendant  
28 denies the allegations.

- 1 17. Responding to the seventeenth numbered paragraph of plaintiff's complaint, Defendant  
2 denies the allegations based on lack of information and belief.
- 3 18. Responding to the eighteenth numbered paragraph of plaintiff's complaint, Defendant  
4 denies the allegations based on lack of information and belief.
- 5 19. Responding to the nineteenth numbered paragraph of plaintiff's complaint, Defendant  
6 denies the allegations based on lack of information and belief.
- 7 20. Responding to the twentieth numbered paragraph of plaintiff's complaint, Defendant  
8 denies the allegations based on lack of information and belief.
- 9 21. Responding to the twenty-first numbered paragraph of plaintiff's complaint, Defendant  
10 denies the allegations based on lack of information and belief.
- 11 22. Responding to the twenty-second numbered paragraph of plaintiff's complaint,  
12 Defendant denies the allegations based on lack of information and belief.
- 13 23. Responding to the twenty-third numbered paragraph of plaintiff's complaint, Defendant  
14 denies the allegations based on lack of information and belief.
- 15 24. Responding to the twenty-fourth numbered paragraph of plaintiff's complaint,  
16 Defendant denies the allegations based on lack of information and belief.
- 17 25. Responding to the twenty-fifth numbered paragraph of plaintiff's complaint, Defendant  
18 denies the allegations based on lack of information and belief.
- 19 26. Responding to the twenty-sixth numbered paragraph of plaintiff's complaint, Defendant  
20 denies the allegations based on lack of information and belief.
- 21 27. Responding to the twenty-seventh numbered paragraph of plaintiff's complaint,  
22 Defendants deny the allegations based on lack of information and belief.
- 23 28. Responding to the twenty-eighth numbered paragraph of plaintiff's complaint,  
24 Defendant denies the allegations.
- 25 29. Responding to the twenty-ninth numbered paragraph of plaintiff's complaint, Defendant  
26 denies the allegations based on lack of information and belief.
- 27 30. Responding to the thirtieth numbered paragraph of plaintiff's complaint, Defendant  
28 denies the allegations based on lack of information and belief.

- 1 31. Responding to the thirty-first numbered paragraph of plaintiff's complaint, Defendant  
2 denies the allegations based on lack of information and belief.
- 3 32. Responding to the thirty-second numbered paragraph of plaintiff's complaint,  
4 Defendant denies the allegations based on lack of information and belief.
- 5 33. Responding to the thirty-third numbered paragraph of plaintiff's complaint, Defendant  
6 denies the allegations.
- 7 34. Responding to the thirty-fourth numbered paragraph of plaintiff's complaint, Defendant  
8 denies the allegations.
- 9 35. Responding to the thirty-fifth numbered paragraph of plaintiff's complaint, Defendant  
10 denies the allegations.
- 11 36. Responding to the thirty-sixth numbered paragraph of plaintiff's complaint, Defendant  
12 denies the allegations.
- 13 37. Responding to the thirty-seventh numbered paragraph of plaintiff's complaint,  
14 Defendant denies the allegations.
- 15 38. Responding to the thirty-eighth numbered paragraph of plaintiff's complaint, Defendant  
16 denies the allegations based on lack of information and belief.
- 17 39. Responding to the thirty-ninth numbered paragraph of plaintiff's complaint, Defendant  
18 denies the allegations based on lack of information and belief.
- 19 40. Responding to the fortieth numbered paragraph of plaintiff's complaint, Defendant  
20 denies the allegations.
- 21 41. Responding to the forty-first numbered paragraph of plaintiff's complaint, Defendant  
22 denies the allegations based on lack of information and belief.
- 23 42. Responding to the forty-second numbered paragraph of plaintiff's complaint, Defendant  
24 denies the allegations based on lack of information and belief.
- 25 43. Responding to the forty-third numbered paragraph of plaintiff's complaint, Defendant  
26 denies the allegations.
- 27 44. Responding to the forty-fourth numbered paragraph of plaintiff's complaint, Defendant  
28 denies the allegations based on lack of information and belief.

- 1 45. Responding to the forty-fifth numbered paragraph of plaintiff's complaint, Defendant  
2 denies the allegations.
- 3 46. Responding to the forty-sixth numbered paragraph of plaintiff's complaint, Defendant  
4 denies the allegations.
- 5 47. Responding to the forty-seventh numbered paragraph of plaintiff's complaint,  
6 Defendant denies the allegations.
- 7 48. Responding to the forty-eighth numbered paragraph of plaintiff's complaint, Defendant  
8 denies the allegations.
- 9 49. Responding to the forty-ninth numbered paragraph of plaintiff's complaint, Defendant  
10 denies the allegations based on lack of information and belief.
- 11 50. Responding to the fiftieth numbered paragraph of plaintiff's complaint, Defendant  
12 denies the allegations based on lack of information and belief.
- 13 51. Responding to the fifty-first numbered paragraph of plaintiff's complaint, Defendant  
14 denies the allegations based on lack of information and belief.
- 15 52. Responding to the fifty-second numbered paragraph of plaintiff's complaint, Defendant  
16 denies the allegations based on lack of information and belief.
- 17 53. Responding to the fifty-third numbered paragraph of plaintiff's complaint, Defendant  
18 denies the allegations based on lack of information and belief.
- 19 54. Responding to the fifty-fourth numbered paragraph of plaintiff's complaint, Defendant  
20 denies the allegations based on lack of information and belief.
- 21 55. Responding to the fifty-fifth numbered paragraph of plaintiff's complaint, Defendant  
22 denies the allegations based on lack of information and belief..
- 23 56. Responding to the fifty-sixth numbered paragraph of plaintiff's complaint, Defendant  
24 denies the allegations based on lack of information and belief.
- 25 57. Responding to the fifty-seventh numbered paragraph of plaintiff's complaint, Defendant  
26 denies the allegations.
- 27 58. Responding to the fifty-eighth numbered paragraph of plaintiff's complaint, Defendant  
28 denies the allegations based on lack of information and belief.

- 1 59. Responding to the fifty-ninth numbered paragraph of plaintiff's complaint, Defendant  
2 denies the allegations based on lack of information and belief.
- 3 60. Responding to the sixtieth numbered paragraph of plaintiff's complaint, Defendant  
4 denies the allegations.
- 5 61. Responding to the sixty-first numbered paragraph of plaintiff's complaint, Defendant  
6 denies the allegations based on lack of information and belief.
- 7 62. Responding to the sixty-second numbered paragraph of plaintiff's complaint, Defendant  
8 denies the allegations based on lack of information and belief.
- 9 63. Responding to the sixty-third numbered paragraph of plaintiff's complaint, Defendant  
10 denies the allegations based on lack of information and belief.
- 11 64. Responding to the sixty-fourth numbered paragraph of plaintiff's complaint, Defendant  
12 denies the allegations.
- 13 65. Responding to the sixty-fifth numbered paragraph of plaintiff's complaint, Defendant  
14 denies the allegations based on lack of information and belief.
- 15 66. Responding to the sixty-sixth numbered paragraph of plaintiff's complaint, as to the  
16 first sentence, Defendant admits the allegations. As to the second sentence, Defendant  
17 denies the allegations.
- 18 67. Responding to the sixty-seventh numbered paragraph of plaintiff's complaint,  
19 Defendant denies the allegations based on lack of information and belief.
- 20 68. Responding to the sixty-eighth numbered paragraph of plaintiff's complaint, Defendant  
21 denies the allegations based on lack of information and belief.
- 22 69. Responding to the sixty-ninth numbered paragraph of plaintiff's complaint, Defendant  
23 denies the allegations based on lack of information and belief.
- 24 70. Responding to the seventieth numbered paragraph of plaintiff's complaint, Defendant  
25 denies the allegations based on lack of information and belief.
- 26 71. Responding to the seventy-first numbered paragraph of plaintiff's complaint, Defendant  
27 denies the allegations based on lack of information and belief.
- 28 72. Responding to the seventy-second numbered paragraph of plaintiff's complaint,

1 Defendant denies the allegations based on lack of information and belief.

2 73. Responding to the seventy-third numbered paragraph of plaintiff's complaint,  
3 Defendant denies the allegations.

4 74. Responding to the seventy-fourth numbered paragraph of plaintiff's complaint,  
5 Defendant denies the allegations based on lack of information and belief.

6 75. Responding to the seventy-fifth numbered paragraph of plaintiff's complaint, Defendant  
7 denies the allegations based on lack of information and belief.

8 76. Responding to the seventy-sixth numbered paragraph of plaintiff's complaint,  
9 Defendant denies the allegations.

10 77. Responding to the seventy-seventh numbered paragraph of plaintiff's complaint,  
11 Defendant denies the allegations based on lack of information and belief.

12 78. Responding to the seventy-eighth numbered paragraph of plaintiff's complaint,  
13 Defendant denies the allegations.

14 79. Responding to the seventy-ninth numbered paragraph of plaintiff's complaint,  
15 Defendant denies the allegations.

16 80. Responding to the eightieth numbered paragraph of plaintiff's complaint, Defendant  
17 denies the allegations.

18 81. Responding to the eighty-first numbered paragraph of plaintiff's complaint, Defendant  
19 denies the allegations based on lack of information and belief.

20 82. Responding to the eighty-second numbered paragraph of plaintiff's complaint,  
21 Defendant admits the allegations.

22 83. Responding to the eighty-third numbered paragraph of plaintiff's complaint, Defendant  
23 denies the allegations.

24 84. Responding to the eighty-fourth numbered paragraph of plaintiff's complaint,  
25 Defendant denies the allegations.

26 85. Responding to the eighty-fifth numbered paragraph of plaintiff's complaint, Defendant  
27 denies the allegations.

28 86. Responding to the eighty-sixth numbered paragraph of plaintiff's complaint, Defendant

1 denies the allegations based on lack of information and belief.

2 87. Responding to the eighty-seventh numbered paragraph of plaintiff's complaint,  
3 Defendant denies the allegations.

4 88. Responding to the eighty-eighth numbered paragraph of plaintiff's complaint,  
5 Defendant denies the allegations.

6 89. Responding to the eighty-ninth numbered paragraph of plaintiff's complaint, Defendant  
7 denies the allegations.

8 90. Responding to the ninetieth numbered paragraph of plaintiff's complaint, Defendant  
9 denies the allegations based on lack of information and belief.

10 91. Responding to the ninety-first numbered paragraph of plaintiff's complaint, Defendant  
11 admits the allegations.

12 92. Responding to the ninety-second numbered paragraph of plaintiff's complaint,  
13 Defendant denies the allegations based on lack of information and belief.

14 93. Responding to the ninety-third numbered paragraph of plaintiff's complaint, Defendant  
15 denies the allegations.

16 94. Responding to the ninety-fourth numbered paragraph of plaintiff's complaint,  
17 Defendant denies the allegations.

18 95. Responding to the ninety-fifth numbered paragraph of plaintiff's complaint, Defendant  
19 denies the allegations.

20 96. Responding to the ninety-sixth numbered paragraph of plaintiff's complaint, Defendant  
21 denies the allegations.

22 97. Responding to the ninety-seventh numbered paragraph of plaintiff's complaint,  
23 Defendant denies the allegations based on lack of information and belief.

24 98. Responding to the ninety-eighth numbered paragraph of plaintiff's complaint,  
25 Defendant denies the allegations.

26 99. Responding to the ninety-ninth numbered paragraph of plaintiff's complaint, Defendant  
27 denies the allegations.

28 100. Responding to the one hundredth numbered paragraph of plaintiff's complaint,



Defendant denies the allegations based on lack of information and belief.

101. Responding to the one hundred-first numbered paragraph of plaintiff's complaint, Defendant denies the allegations.

102. Responding to the one hundred-second numbered paragraph of plaintiff's complaint, Defendant denies the allegations based on lack of information and belief.

103. Responding to the one hundred-third numbered paragraph of plaintiff's complaint, Defendant denies the allegations based on lack of information and belief.

104. Responding to the one hundred-fourth numbered paragraph of plaintiff's complaint, Defendant denies the allegations.

#### AFFIRMATIVE DEFENSES

105. AS A FIRST SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said Complaint, and each and every cause of action set forth therein, Defendant alleges that the allegations fail to state any claim upon which relief can be granted.

106. AS A SECOND SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said Complaint, and each and every cause of action set forth therein, Defendant alleges that it is protected by public entity and statutory immunities.

107. AS A THIRD SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said Complaint, and each and every cause of action set forth therein, Defendant alleges that plaintiff's claims are barred by the doctrines of waiver, estoppel and laches.

108. AS A FOURTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said Complaint, and each and every cause of action set forth therein, Defendant alleges that at all times herein mentioned, all actions taken by defendants and employees were reasonable under the circumstances and taken under a good faith belief that the actions were lawful and defendants and employees are therefore immune under the Good Faith Immunity Doctrine.

109. AS A FIFTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said Complaint, and each and every cause of action set forth therein, Defendant alleges that

1 it is immune from liability, and cannot be held liable for any injury that may have been  
2 sustained by plaintiff, which injury Defendant specifically denies, and that Defendant  
3 and employees were at all relevant times performing duties in an objectively reasonable  
4 manner, within lawful responsibilities, and are therefore immune from suit.

5 110. AS A SIXTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said  
6 Complaint, and each and every cause of action set forth therein, Defendant alleges that  
7 each claim and cause of action is barred by the failure of plaintiff to exhaust all  
8 available administrative remedies, including but not limited to those available through  
9 defendant Contra Costa County.

10 111. AS A SEVENTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said  
11 Complaint, and each and every cause of action set forth therein, Defendant alleges that  
12 in the event that the trier of fact finds any liability on the part of this answering  
13 Defendant, which liability is herein denied, answering Defendant will seek the benefit  
14 of several liability for non-economic damages as provided in Civil Code sections 1431  
15 through and including 1431.5.

16 112. AS AN EIGHTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said  
17 Complaint, and each and every cause of action set forth therein, this public entity  
18 defendant alleges that it cannot be found liable for punitive damages pursuant to  
19 Government Code section 818.

20 113. AS A NINTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said  
21 Complaint, and each and every cause of action set forth therein, Defendant alleges  
22 that as to any state law claims, each cause of action is barred under the provisions of  
23 Government Code section 910, et seq., and Code of Civil Procedure section 313 for  
24 failure to comply with requirements of filing a timely and sufficient tort claim and  
25 failure to set forth in any tort claim filed the facts and theories that are set forth in the  
26 pending Complaint.

27 114. AS A TENTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said  
28 Complaint, and each and every cause of action set forth therein, Defendant alleges

1 that the negligence of others, if any, was greater than the negligence of Defendant, if  
2 in fact Defendant was negligent, and the liability, if any, of said answering Defendant  
3 should be diminished in direct proportion to the fault, if any, attributable to others as  
4 compared with that of said answering Defendant.

5 115. AS AN ELEVENTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to  
6 said Complaint, and each and every cause of action set forth therein, Defendant  
7 alleges that it is immune pursuant to Government Code sections 815 and 815.2.

8 116. AS A TWELFTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said  
9 Complaint, and each and every cause of action set forth therein, Defendant alleges it  
10 is immune pursuant to Government Code section 815.6 for exercise of any mandatory  
11 duty when reasonable diligence was used in discharging that duty.

12 117. AS A THIRTEENTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to  
13 said Complaint, and each and every cause of action set forth therein, Defendant  
14 alleges that it is immune pursuant to Government Code section 818.2 for adopting or  
15 failing to adopt an enactment or by failing to enforce any law.

16 118. AS A FOURTEENTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to  
17 said Complaint, and each and every cause of action set forth therein, Defendant  
18 alleges that it is immune pursuant to Government Code section 818.8 for  
19 misrepresentations.

20 119. AS A FIFTEENTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to  
21 said Complaint, and each and every cause of action set forth therein, Defendant  
22 alleges that it is immune pursuant to Government Code sections 820.2 and 815.2 for  
23 exercise of discretion.

24 120. AS A SIXTEENTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to  
25 said Complaint, and each and every cause of action set forth therein, Defendant  
26 alleges that it is immune pursuant to Government Code sections 820.4 and 815.2 for  
27 the execution or enforcement of any law.

28 121. AS A SEVENTEENTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

1 to said Complaint, and each and every cause of action set forth therein, Defendant  
2 alleges that it is not liable to the plaintiff pursuant to Government Code sections 820.6  
3 and 815.2.

4 122. AS A EIGHTEENTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to  
5 said Complaint, and each and every cause of action set forth therein, Defendant  
6 alleges that any and all culpable acts, omissions, or conduct, if any, which allegedly  
7 caused the injuries and damages sought in the Complaint on file in this action, were  
8 caused by third parties and therefore answering Defendant is not liable to the plaintiff  
9 pursuant to Government Code sections 820.8 and 815.2.

10 123. AS A NINETEENTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to  
11 said Complaint, and each and every cause of action set forth therein, Defendant denies  
12 it discriminated in any way against Plaintiff, and instead alleges that legitimate, non-  
13 discriminatory, valid, reasonable and good faith reasons supported each and every  
14 decision made by Defendant and its employees in the exercise of legitimate  
15 managerial discretion.

16 124. AS A TWENTIETH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to  
17 said Complaint, and each and every cause of action set forth therein, Defendant  
18 alleges that it is not liable to the plaintiff pursuant to Government Code sections 815.2  
19 and 821.6.

20 125. AS A TWENTY-FIRST SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE  
21 to said Complaint, and each and every cause of action set forth therein, Defendant  
22 alleges that it is not liable to the plaintiff pursuant to Government Code sections 815.2  
23 and 822.2.

24 126. AS A TWENTY-SECOND SEPARATE AND DISTINCT AFFIRMATIVE  
25 DEFENSE to said Complaint, and each and every cause of action set forth therein,  
26 Defendant alleges that it is immune pursuant to Civil Code section 47(a) and  
27 Government Code section 815.2

28 127. AS A TWENTY-THIRD SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

1 to said Complaint, and each and every cause of action set forth therein, Defendant  
2 alleges that non-discriminatory, business necessity warranted actions taken with  
3 respect to plaintiff's contract.

4 128. AS A TWENTY-FOURTH SEPARATE AND DISTINCT AFFIRMATIVE  
5 DEFENSE to said Complaint, and each and every cause of action set forth therein,  
6 Defendant alleges that it and its employees are immune from liability pursuant to the  
7 provisions of sections 810 through 895.8 of the California Government Code.

8 129. AS A TWENTY-FIFTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE  
9 to said Complaint, and each and every cause of action set forth therein, Defendant  
10 alleges that plaintiff's action, and claims alleged therein, are barred by the provisions  
11 of Code of Civil Procedure section 340(3), 342, and every other limitations period  
12 applicable to each and every cause of action alleged in the complaint.

13 130. AS A TWENTY-FIFTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE  
14 to said Complaint, and each and every cause of action set forth therein, Defendant  
15 alleges that Plaintiff cannot obtain as a remedy under the allegations asserted any of  
16 statutory, punitive damages, prejudgment interest or other non-compensatory  
17 damages.

18 131. AS A TWENTY-SIXTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE  
19 to said Complaint, Defendant alleges that the complaint, and causes of action alleged  
20 therein are barred by the doctrines of collateral estoppel and res judicata.

21 132. AS A TWENTY-SEVENTH SEPARATE AND DISTINCT AFFIRMATIVE  
22 DEFENSE to said Complaint, Defendant alleges that it validly terminated the contract  
23 at issue, in accordance with the terms of the contract.

24 133. AS A TWENTY-EIGHTH SEPARATE AND DISTINCT AFFIRMATIVE  
25 DEFENSE to said Complaint, Defendant alleges that Plaintiff is guilty of unclean  
26 hands and therefor cannot recover in this lawsuit.

27 134. AS A TWENTY-NINTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE  
28 to said Complaint, Defendant alleges that the actions alleged by Plaintiff in the

Complaint do not give rise to protection under any “whistleblowing” statute.

135. AS A THIRTIETH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said Complaint, Defendant alleges that it and its employees acted at all times in good faith, and without any discriminatory motive or animus.

136. AS A THIRTY-FIRST SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said Complaint, and each and every cause of action set forth therein, Defendant alleges that Plaintiff himself was responsible for any alleged damage or injury, which damage and injury are specifically denied by Defendants.

105. AS A THIRTY-SECOND SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said Complaint, Defendant alleges that the complaint, and causes of action alleged therein are barred the failure of Plaintiff to comply with statutory requirements and prerequisites to support the causes of action alleged, and each of them.

106. AS A THIRTY-THIRD SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said Complaint, Defendants allege that Plaintiff independently and voluntarily relinquished rights under any contract, and therefore the instant claims are barred.

107. AS A THIRTY-FOURTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said Complaint, Defendant and its employees were justified and privileged in doing each of the things alleged to have been done, to the extent such things were done at all.

108. AS A THIRTY-FIFTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE to said Complaint, Defendant asserts that Plaintiff’s claims are barred, in whole or in part, by virtue of the provisions of the California Workers’ Compensation Act, Labor Cod section 3600, et seq., which provides the exclusive remedy for Plaintiff’s claims.

WHEREFORE, Defendant prays for the following relief:

- a. That plaintiff take nothing by his Complaint and that Defendant be dismissed;
- b. That Defendant be awarded costs;

- 1 c. That Defendant be awarded attorneys fees; and  
2 d. For such other relief that the court deems just and proper.  
3

4 JURY REQUEST

5 Defendant requests a trial by jury.  
6

7  
8 DATED: July 27, 2007

SILVANO B. MARCHESI  
COUNTY COUNSEL

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10  
11 By: \_\_\_\_\_  
12 JANET L. HOLMES  
13 Deputy County Counsel  
14 Attorneys for Defendant  
15 CONTRA COSTA COUNTY  
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